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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,729	06/30/2006	Volker Mohr	M11P01W0-US	9462
36608 7590 07/01/2009 GUDRUN E. HUCKETT DRAUDT SCHUBERTSTR. 15A WUPPERTAL, 42289 GERMANY				
EXAMINER KOPPIKAR, VIVEK D				
ART UNIT		PAPER NUMBER		
3686				
MAIL DATE		DELIVERY MODE		
07/01/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/552,729

**Applicant(s)**

MOHR, VOLKER

**Examiner**

VIVEK D. KOPPIKAR

**Art Unit**

3686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/30/06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-893)  
Paper No(s)/Mail Date 10/11/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of the Application***

1. Claims 1-10 have been examined in this application. This communication is the first action on the merits. The Information Disclosure Statement (IDS) filed on October 11, 2005 has also been acknowledged.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what the phrase “in such a way” in line 10 of claim 1 refers to. Applicants appear to be attempting to claim a manner in which elements in the data pool are correlated however the applicants need to claim the exact manner in which these elements are correlated because the phrase “in such a way” does not delineate a definite way in which these elements are correlated. Appropriate correction is required. For the purposes of examination, the Office will interpret this claim broadly to cover any teaching in the prior art that discloses or suggests data links and displaying data correlations.

Claims 2-9 are rejected as being dependent on a base or parent claim which is rejected under 35 U.S.C. 112, 2nd paragraph.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “a computer system with a number of components” is indefinite

because it is not clear exactly how many components the claimed system requires. Appropriate correction is required. For the purposes of examination, the Office will interpret this claim broadly to read on or cover any teaching in the prior art that teaches a computer system comprising any number of components that perform the steps of the claimed method.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims are directed towards a method for automatically processing and evaluating medical data for the purpose of determining and providing diagnostic and/or medical-care relevant information based on a plurality of available data sources but the claims do not recite a device (e.g. a computer) which is used for carrying out the claimed method. Therefore, these claims are not tied to a statutory class of invention. In order to overcome this rejection, the Office recommends amending the claims so that they recite a device (e.g. a computer) which is used in carrying out the claimed method. The applicants are reminded, however, that any amendment(s) to the claim(s) must have support in the specification as it was originally filed.

***Claim Objections***

6. Claims 4-9 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 4-9 not been further treated on the merits.

Claim 1 is objected to because of the following informalities: On line 11 of claim 1 "dada" should be "data". Appropriate correction is required.

Claim 1 is objected to because of the following informality: The terms in parenthesis such as rating and aggregate should be taken out of parenthesis and claimed in the following form "evaluation or rating" and "summary or aggregate". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent Application Publication 2002/0082870 to Penny.

(A) As per claim 1, Penny teaches a method for automatically processing and evaluating medical data for the purpose of determining and providing diagnostic and/or medical-care relevant information based on a plurality of available data sources (Penny: Abstract), characterized in that  
all data sources are acquired in a common data pool (Penny: Section [0023]);  
each data source is evaluated based on predetermined criteria (Penny: Section [0038]);

the results of the evaluation (rating) is saved with correlation to the data source (Penny: Section [0038]);

the data contained in the data pool is referenced in such a way that elements of the data pool that are correlated with regard to contents are linked and can be displayed automatically as being correlated (Penny: Sections [0023], [0030] and [0038]), and

based on the data sources in accordance with predetermined boundary conditions, a structured summary (aggregate) in the form of a virtual data sheet is produced (Penny: Sections [0023], [0030] and [0038]).

(B) As per claim 2, in Penny the method is characterized in that the criteria based on which each data source is evaluated comprises at least one criterion, preferably all criteria, of the following list of criteria: origin of the data source, quality of the data source, age of the data source, formal quality of the data source, contents of the data source (Penny: Sections [0030] and [0038]).

(C) As per claim 3, in Penny the virtual data sheet information is combined to blocks wherein the blocks contain information to at least one, preferably all, aspects of the following list of aspects: identity of the patient, special risks, vaccination status, blood type, diagnoses, surgeries/interventions, current therapies, symptoms/differential diagnosis, current diagnostics, catheter/implants, stoma/wounds, organ function profile central nervous system, organ function profile heart, organ function profile blood vessels, organ function profile lungs/tracheal bronchial tract, organ function profile kidneys/urinary tract, organ function profile liver/biliary tract, organ function profile gastrointestinal tract, organ function profile pancreas, organ function profile genital system, organ function profile blood/coagulation, organ function profile endocrine system, organ function profile

metabolism, organ function profile immunological system, organ function peripheral nervous system, organ function profile skin/mucous membranes, organ function profile skeleton/muscles/connective tissue, organ function profile eyes/throat/nose/ears, organ function profile teeth status, social status and care status (Penny: Section [0035]).

(D) As per claim 10, Penny teaches an arrangement for processing and evaluating medical data for the purpose of determining diagnostic and/or medical-care relevant health data based on a variety of available data sources, characterized in that a computer system with a number of components is provided and configured for performing a method according to one of the claims 1 to 9 (Penny: Sections [0023], [0030], [0035] and [0038]).

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Koppikar, whose telephone number is (571) 272-5109. The examiner can normally be reached from Monday to Friday between 8 AM and 4:30 PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Jerry O'Connor, can be reached at (571) 272-6787. The fax telephone numbers for this group are either (571) 273-8300 or (703) 872-9326 (for official communications including After Final communications labeled "Box AF").

Another resource that is available to applicants is the Patent Application Information Retrieval (PAIR). Information regarding the status of an application can be obtained from the (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAX. Status information for unpublished applications is available

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through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, please feel free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,

/Vivek D Koppikar/

Primary Examiner, Art Unit 3686

7/1/2009